

The 17th December, 1982

No. 9(1)-82-6 Lab/11823.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Vinita Textile, Sector-2, Tigaon Road, Ballabgarh :—

**BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 317/1981

between

**SHRI RAM NEWAL YADEV, WORKMAN AND THE MANAGEMENT OF M/S VINITA
TEXTILE, SECTOR-2, TIGAON ROAD, BALLABGARH**

Present:—

Shri Manohar Lal for the workman.
Shri K. P. Agrawal for the management.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Ram Newal Yadav and the management of M/s Vinita Textile, Sector 2, Tigaon Road, Ballabgarh, by order No. ID/FD/91/81/47875, dated 18th September, 1981 to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Newal Yadav was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my order, dated 24th November, 1981 :—

- (1) Whether the workman lost his lien due to unauthorised absence from duty? If so, to what effect?
- (2) Whether the termination of service of Shri Ram Newal Yadav was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management who examined Shri M. S. Sharma, Manager as MW-1 and Shri Vijay Kumar Agarwal as MW-2. The concerned workman examined himself as his own witness as WW-1.

Issue No. 1.—MW-1 deposed that he knew the concerned workman. He had submitted leave application Ex. M-1. Leave was sanctioned for the period upto 30th April, 1981. The workman did not report for duty after the expiry of leave. Call letters, dated 11th May, 1981 and 4th June, 1981 were sent to him. Copy Ex. M-2 and M-3 were acknowledgement cards for receipt of above letters. Photo copies of the attendance register were Ex. M-4 and M-5. The workman remained absent from 1st of May, to 30th of June. In cross examination, he denied his signature on Ex. W-1 acknowledgement card. He denied that leave application was received by him on 12th May, 1981, along with medical certificate-copy Ex. W-2. He denied that the workman had come on 20th June, with a fitness certificate. MW-2 deposed that he had received two letters Ex. M-6 and M-7 from the brother of the concerned workman. He had enquired from the workman cause of absence when he came to the factory. It was informed that there had arisen some dispute at his home. He sent medical certificate because there was no alternative for taking leave. In cross examination he replied that he had never seen Shri Chhedi Ram Yadav nor he had any relation with him. He denied that Ex. M-6 was forged document. He did not know whereabouts of Shri Chhedi Ram.

WW-1 deposed that he had proceeded on leave for 15 days on 16th April, 1981. He had fallen sick during leave and sent medical certificate on 1st May, 1981. He reported for duty on 20th June, 1981. In cross-examination, he admitted his leave application Ex. M-1. He also admitted acknowledgement card Ex. M-2 and M-3. He had sent only medical certificate when he fell sick on 30th April, 1981. He had not sent any application along with it. He further deposed that there was no school in his village. He did not know who had sent letter to the Manager from his village. In cross-examination, he replied that he did not know if Shri Chhedi Ram Yadav was Headmaster of the School.

I have gone through the documents and find that the workman had gone on leave, — vide Ex. M-1. Two letters were sent to the workman informing him about his absence by registered post. The workman has admitted the acknowledgment cards Ex. M- 2 and M-3. The management has denied receipt of any leave extension application. The management has also denied acknowledgement cards Ex. W-1, W-2 and W-3. The postal stamp on the acknowledgment cards was not legible. The workman has denied letters Ex. M-6 and M-7 written on his behalf by the Headmaster. The management has failed to prove any relationship with the Headmaster. On the basis of evidence on record, I find that the workman remained absent from duty after expiry of leave.

Issue No. 2.—

MW-1. deposed that the name of the workman was struck off from rolls when he remained absent upto 30th June. I find that the word "name struck off" appeared in Ex. M-5 against the name of the concerned workman. He had been marked absent for whole of the month. It is a case of striking of name from the rolls due to over-staying of leave. It was held in 1978-I-LLJ-page I that the striking off the name amounts to termination. It was further held in Santosh Gupta V/s State Bank of Patiala 1980-II-LLJ-page. 72 that:—

If the definition of "retrenchment" is looked at unaided and unhampered by precedent, one is at once struck by the remarka by wide language employed and particulary by the he of the words termination for any reason whatsoever. The definition expressly excludes termination of service as a punishment inflicted by way of disciplinary action." The definition does not include, so it expressly says, voluntary retirement of a workman or retrenchment of the workmen on reaching the age of superannuation or termination of the service of the workman on the ground of continuous ill health. Voluntary retirement of a workman or retrenchment of the workman on reaching the age of superannuation can hardly be described as termination, by the employer, of the service of a workman. Yet the Legislature took special care to mention that they were not included within the meaning " termination by the employer of the service of a workman for any reason whatsoever."

Therefore, striking off name entails consequence of compliance of the provision of Section 25-F for payment of retrenchment compensation. In the instant case no such compensation was paid to the workman at the time of striking off his name, therefore, the order is not according to law. The workman was, therefore, entitled to his reinstatement with full back wages. I award accordingly.

Dated the 3rd November, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1161, dated 11th November, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)-82-6Lab./11826.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Chanda Enterprises, Muzessar, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 300/1981

between

SHRI SRI KANT, WORKMAN AND THE MANAGEMENT OF M/S CHANDA ENTERPRISES, MUZESSAR, FARIDABAD

Present :—

Shri K. P. Agarwal for the management.

Nemo for the workman.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Sri Kant and the management of M/s Chanda Enterprises, Muzassar, Faridabad, by order No. ID/FD/115/81/45709, dated 7th September, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Sri Kant was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, issues were framed by order, dated 5th January, 1982:—

- (1) Whether the workman has absented from duties from 26th May, 1981? If so, to what effect?
- (2) Whether the termination of service of Shri Sri Kant was justified and in order? If not, to what relief is he entitled?

The management examined Shri Vinod Kumar Sharma, Time-keeper as MW-1 and the workman examined himself as his own witness. The workman did not turn up on the dates fixed for argument. Therefore, *ex parte* argument for management heard.

Issue No. 1—

MW-1 deposed that the concerned workman was appointed as helper. He had submitted application Ex. M-1 and leave was sanctioned from 10th May, 1981 to 25th May, 1981. The workman remained absent after the leave. Two registered letters Ex. M-2 and M-3 were sent to him but he did not turn up for duty. His name was struck off on 6th June, 1981. Copy of abstract from attendance register was Ex. M-4. In cross-examination, he replied that no request for extension of leave or medical certificate was received from the workman. He denied the suggestion that a registered letter was received for the purpose.

The concerned workman deposed that he had gone on sanctioned leave for the period from 10th May, 1981 to 25th May, 1981. He fell sick after the leave and later on he received information that his mother was sick. He went to his home and informed the management,—*vide* postal receipt Ex. W-2. He sent two other letters postal receipts of which were Ex. W-3 and W-4. He got his treatment in Government hospital. In cross-examination, he replied that he did not remember the date when he received information about illness of his mother. He had fallen sick on 24th of May and he could not tell about the contents of letters sent under postal receipt of Ex. W-4. On recovery from illness he reported for duty on 20th June, 1981.

I have gone through the documents and find that Ex. W-1 telegram, dated 24th April, 1981, regarding the sickness of his mother. He proceeded on leave,—*vide* application Ex. M-1 for 16 days. It is given in the application that second telegram was received of the mother's illness. The workman had sent some letter to the management,—*vide* postal receipt Ex. W-2. It bears postal stamp, dated 25th May, 1981. It was from Post Office in District Gorakhpur. Other receipts were from Faridabad. The management's letters Ex. M-1 and M-3 purported to be sent by registered post are not supported by any postal receipt or A.D. cards. However, the workman was unable to produce a copy of the application by which he intimated the management for extension of leave beyond 25th June, 1981. It was an admitted fact that he did not work in the factory for the period shown as absence in abstract Ex. M-4. According to the workman he reported for duty on 20th June, 1981. Fitness certificate of E. S. I. was showing date of certificate 22nd June, 1981 and date of fitness 25th June, 1981. Therefore, it is held that the workman remained absent from duty upto 6th June, 1981.

Issue No. 2—

MW-1 produced conciliation report Ex. M-5 and stated that the name of the workman was struck off on 6th June, 1981. WW-2 deposed that when he was not taken on duty he made a complaint to the Labour Inspector. It is an admitted fact that the workman was a permanent workman and it was also admitted that no compensation was paid to the workman at the time of striking off his name.

The learned representative for the management contended that it was a case of willful absence of more than 10 days. He also contended that the workman seemed not interested in the job as he has not appeared in the adjudication proceeding after concluding of the evidence. He cited 1975-I-LLN-page 125 and 1976 F.L.R., Volume 33, page 27 and argued that workman was not entitled to any back wages.

I find that the order of striking off his name was bad in law as no retrenchment compensation was paid to him. It was settled law that striking of name amounted to termination and compliance of section 25-F of the Industrial Disputes Act was mandatory because the termination of service amounted to retrenchment. In the fitness of things, it will be proper if the workman was paid retrenchment compensation and legal dues in addition to a sum of Rs. 500/- (Rs. Five Hundreds only) as cost of litigation. I award accordingly.

M. C. BHARDWAJ,

Dated the 2nd November, 1982.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1164, dated the 4th November, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)82-6Lab/11827.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Piyush Art Printers, Plot No. 91, Sector 6, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 226/1981

between

SHRI RAJBIR SINGH, WORKMAN AND, THE MANAGEMENT OF M/S PIYUSH ART
PRINTERS, PLOT NO. 91, SECTOR 6, FARIDABAD

Present :—

Shri Jai Raj Singh, for the management.

Nemo for the workman.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Rajbir Singh and the management of M/s Piyush Art Printers, Plot No. 91 Sector 6, Faridabad by order No. ID/FD/60/81/31985, dated 3rd July, 1981, to this Tribunal for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Rajbir Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties. The workman appeared but the management did not appear and *ex parte* award was passed on 28th September, 1981. Later on by order, dated 11th June, 1982 in Misc. Application No. 23 of 1981, this award was set aside and the case was fixed for written statement of the management as the workman adopted his demand notice as claim statement. There after the workman failed to appear on three consecutive dates. Finally both the parties did not appear in the case. Therefore, it was dismissed for non-prosecution. In view of the above, I pass my award that the parties are not interested in pursuing the present reference.

M. C. BHARDWAJ,

Dated the 3rd November, 1982.

Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

Endorsement No. 1165, dated the 31st November, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)-82-6 Lab/11828.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Bhiwani Textile Mills, Bhiwani:—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 95/1977

between

THE WORKMEN AND THE MANAGEMENT OF M/S BHIWANI TEXTILE MILLS,
BHIWANI

Present.—

Shri S. S. Gupta, for the workman.

Shri B. R. Ghai, for the management.

AWARD

The Governor of Haryana referred the following dispute between the management of M/s Bhiwani Textile Mills, Bhiwani and its workmen, by order No. ID/HSR/82-0-77/26284, dated 14th July, 1977, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the workmen are entitled to any increase in the rate of dearness allowance? If so, with what details?
- (2) Whether the minimum wages of piece rated workmen should be guaranteed? If so, with what details?
- (3) Whether the workers who have not been provided quarters by the management should be granted house rent allowance? If so, with what details?
- (4) Whether all the workmen should be given weekly holiday with wages? If so, with what details?

Notices of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by order, dated 27th February, 1978 by my learned predecessor:—

- (1) Whether Textile Mazdoor Sangh represents a considerable number of workmen of the management? If not, to what effect?
- (2) Whether the demand under reference are espoused by a substantial number of workmen?
- (3) Whether dispute Nos. 1 to 4 are hit by conciliation settlement as mentioned in para No. 3 of the preliminary objection?
- (4) Whether the workmen are entitled to any increase in the rate of dearness allowance? If so, with what details?
- (5) Whether the minimum wages of piece-rated workmen should be guaranteed? If so, with what details?

- (6) Whether the workers who have not been provided quarters by the management should be granted house-rent allowance? If so, with what details?
- (7) Whether all the workmen should be given weekly holiday with wages? If so, with what details?

Issue No. 4 was amended,—*vide* notification No. ID/HSR/6-R-77/39242, dated 8th September, 1977 in which issue No. 1 and 5 were substituted in the order of reference as under :—

- (1) Whether the workmen are entitled to any increase in the basic wages? If so, with what details?
- (2) Whether the workmen are entitled to the grant of bonus for the year 1975-76? If so, with what details?

The workmen examined Shri Rohtas Kumar, General Secretary, Textile Mazdoor Sangh, as WW-1, Shri Om Parkash, Pick Checker, as WW-2, Shri O. P. Sachdeva, Head Assistant, office of the Labour Commissioner, Haryana, as WW-3. The management examined Shri Shyam Lal, Legal Assistant, as MW-1, on the preliminary issues. Issue No. 1 to 3 were decided against the management;—*vide* my order dated 29th July, 1981. On the other issues, the workman examined Shri Krishan Kant Mishra, workman, as WW-4, Shri Hoshier Singh, Workman as WW-5, and Shri Jhabir Mal, Workman, as WW-6. The management examined Shri Shyam Lal, MW-1 and Shri B. R. Ghai, as MW-2. Arguments were heard.

Learned representative for the management argued that during the pendency of the dispute, parties made a settlement Exhibit MW-4/1, dated 15th July, 1982. According to the settlement, parties agreed to rates of wages existing in Coimbatore Mills. He further urged that all the demands under different issues were included in term wages in one form or another,

I have gone through the settlement under section 12(3) of the Industrial Disputes Act, 1947 arrived at with the intervention of the Hon'ble Chief Minister, Haryana and Hon'ble Labour Minister, Haryana on 15th July, 1982. On behalf of the workers settlement was signed by Shri Sagar Ram Gupta, Shri Harbans Singh and Shri Sat Narain Clause 2 of the settlement runs :—

“The work load and the basic wages of the workmen shall be fixed on the Coimbatore pattern in terms of settlement dated 2nd September, 1980, 20th April, 1981 and 10th June, 1981. The work-load and the basic wages for the categories for which there is some difference of opinion between the management and the workmen shall be finalised within two months.

And in clause 7, it was further agreed :—

“with the implementation of this agreement, all disputes relating to dearness allowance or basic wages, if any, pending in the Industrial Tribunal or Labour Court shall be considered as withdrawn as settled

Learned representative for the management further argued that the demands of the workers were referred in the year 1977 and from that period there had been substantial rise in the Dearness allowance etc.

I have gone through the demands in the issues and settlement Exhibit MW-1/4, the demands pertain to wages, minimum wages for piece-rated workmen, house-rent allowance and weekly holidays with wages. As regards the grant of bonus for the year 1975-76, the matter was under adjudication in the reference No. 145/1978. Both the parties led their evidence in support of their respective claims. The management placed on record settlement showing comparative statement Exhibit MW-1/1 showing comparative total wages payable to the workmen from January, 1977 to August, 1982. I think, it will be only the academic exercise to discuss evidence led by the parties because latest settlement had become operative. According to clause 1 of the settlement, the workman have been allowed increase in dearness allowance at the rate of 65% per month from the date. Basic wages had been adopted at Coimbatore pattern. As regards the payment of house-rent allowance, I find that wages as defined under section 2(rr)(ii) of the Industrial Disputes Act, 1947, includes the value of any house accommodation, or of supply of light water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles. The weekly holidays must therefore be considered in the light of practice prevalent in Coimbatore, I presume that the settlement was arrived at to minimise points discord between the parties in relation to wages and work load of the workmen. Therefore, it will be in the fitness of things to lay my hands off from commenting on any of the issue. The workmen have settled the above disputes as appeared the settlement. I award accordingly.

Dated the 8th November, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1166, dated 11th November, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/11829.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the Dispute between the workman and the management of M/s Joy B Industries, Plot No. 162, Sector 24, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 142/1982

between

SHRI ASHOK SINGH WORKMAN AND THE MANAGEMENT OF M/S. JOY B INDUSTRIES,
PLOT No. 162, SECTOR 24, FARIDABAD

Present.—

Shri Satish Ahuja, for the management.

Nemo, for the workman.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Ashok Singh and the management of M/s Joy B Industries, Plot No. 162, Sector 24, Faridabad, by order No. ID/FD/70/82/20337, dated 30th April, 1982, to this Tribunal for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri Ashok Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. Lastly the workman or his representative did not appear in the proceeding and the management was asked to adduce *ex parte* evidence. The management examined Shri Satish Ahuja as MW-1 who deposed that he was appointed enquiry officer *vide* Ex. M-1. Enquiry proceeding was Ex. M-3. His finding was Ex. M-4. Documents produced during the enquiry by the management were Ex. M-5 to M-11. He found the workman guilty.

I have gone through the enquiry proceeding and find that the workman participated in the enquiry. Evidence was recorded in his presence and the witnesses were cross-examined and finding of the enquiry based upon the evidence.

Therefore I find that the action of the management was based upon the principal of natural justice. The workman was not entitled in any relief.

Dated the 8th November, 1982.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1167, dated 11th November, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.